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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,749	10/20/2003	Bryan Fee	H310773US	9271
34236	7590	04/07/2005		EXAMINER
VALENTINE A. COTTRILL				ZEC, FILIP
SUITE 1020 50 QUEEN STREET NORTH				
KITCHENER, ON N2H6M2			ART UNIT	PAPER NUMBER
CANADA			3744	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/687,749	FEE ET AL.
	Examiner	Art Unit
	Filip Zec	3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 20 October 2003.
2a) This action is FINAL. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-24 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 20 October 2003 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/11/04.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____.

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the current figures not submitted on 3/22/2004 are too dark, contain handwritten numbers and arrows, and are difficult to read. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
2. The replacement drawings, filed on 3/22/2004, are acceptable.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6-12, 19 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,094,934 to Rand et al. In FIG. 10, Rand teaches a modular refrigeration unit (10) for use in a refrigeration cabinet (12, FIG. 1), said cabinet having insulated outer walls (14-20, all FIG.'s) and an access door (42, FIG. 5) for accessing the main chamber, the modular refrigeration unit having a condenser assembly including a condenser (122), a condenser fan

(124), said fan positioned to create a flow of air into the condenser chamber towards a compressor and the condenser (col 8, lines 45-52), said flow being parallel to a bulkhead portion (see FIG. 2), a condenser fan motor (126), a compressor (128); an evaporator assembly, including an evaporator (116, FIG. 1), an evaporator tray (208 and 210, FIG. 1) positioned beneath the evaporator, an evaporator fan (118), an evaporator fan motor (120); the condenser assembly including a condenser tray (132), a bulkhead assembly (156) positioned between the condenser assembly and the evaporator assembly; the refrigeration cabinet including a condenser chamber (114, FIG. 2) adapted for receiving the condenser assembly, the condenser chamber having at least one insulated wall portion (col 5, lines 39-54) with at least one mating surface thereon and an insulated main chamber (112 and 34, FIG. 2), in which air is cooled by the evaporator assembly and the bulkhead assembly being engageable with said at least one mating surface (col 8, lines 9-34) to form a substantially air-tight seal between the condenser chamber and the main chamber. This refrigerator additionally includes an evaporator shield assembly (see FIG. 5) positioned in the main chamber; a plenum (below 112 and above 34, FIG. 9) positioned adjacent to the evaporator and a partition (216) positioned substantially vertically in the main chamber, said plenum and the partition partially define an interior chamber portion (38, FIG. 5) of the main chamber, the plenum and the partition including a plurality of openings (220, FIG. 6) and in which the insulated interior wall portion extends from the aperture (40, FIG. 2) in the outer wall to said at least one mating surface to form a condenser chamber floor (22, FIG. 4) on which the modular refrigeration unit is positioned and a condenser chamber ceiling (242, FIG. 4) disposed above the modular refrigeration unit. The refrigerator cabinet further includes a secondary access door (FIG. 4; col 3, lines 9-40) positioned in a substantially planar second outer

wall (18, FIG. 2) of the cabinet, the second outer wall of the cabinet including an opening for receiving the secondary access door such that when the secondary access door is in the closed position, an exterior surface of the secondary access door is substantially flush (see FIG. 9) with an external surface of the second outer wall; said second outer wall includes a ridge projecting into the opening, providing for it to be flush (see FIG. 9) with the external surface of the second outer wall and an insulation from the ambient atmosphere (col 2, lines 38-40).

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 24 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,464,312 to Tenhundfeld et al. In FIG. 4, Tenhundfeld teaches a gasket assembly (40) including a first thermal breaker portion (48) in a refrigeration cabinet, a second thermal breaker portion (42) adapted for attachment to a bulkhead body portion around a peripheral edge thereof and a flexible gasket portion (52 and 66) attached to the second thermal breaker portion, the gasket portion being adapted to engage with the mating surface (44) on at least one internal wall portion (12) surface of the refrigeration cabinet.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-5 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,094,934 to Rand et al., in view of U.S. Patent 5,199,273 to Silva et al. Rand discloses applicant's basic inventive concept, a modular refrigeration unit for use in a refrigeration cabinet, having a gasket assembly (150, FIG. 2), said assembly comprising a rubber (col 5, lines 47-48) gasket portion (146 and 148, FIG. 2), substantially as claimed with the exception of specifically stating that the gasket assembly is located on the modular refrigeration unit, said assembly comprising a thermal breaker embedded in said unit and the use of at least three flexible, rubber vanes to form an air-tight seal. Silva shows a gasket assembly located on the modular refrigeration unit (60, FIG. 7), said assembly comprising a thermal breaker (36, FIG. 5), embedded in said unit to be old in the refrigeration art. Per claims 4 and 5, the applicant should note that the selection of a shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Silva to modify the system of Rand, by having the gasket assembly located on the modular refrigeration unit, said assembly comprising a thermal breaker embedded in said unit and the use of at least three flexible, rubber vanes in order to form an air-tight seal (col 4, lines 30-45).

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,094,934 to Rand et al., in view of U.S. Patent 5,732,565 to Ramakrishnan et al. Rand discloses applicant's basic inventive concept, a modular refrigeration unit for use in a refrigeration cabinet, having a grille (see FIG.'s 3 and 4) positioned above the condenser chamber, an intake (244, FIG. 4) and a set of louvers (246, FIG. 4) for outtake, substantially as claimed with the exception of using a first set of louvers at the intake. Ramakrishnan shows a first set of louvers (106, FIG. 1B) at the intake to be old in the refrigeration art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Ramakrishnan to modify the system of Rand, by having a first set of louvers at the intake as well as on the outtake in order to prevent any unwanted elements from being sucked inside of the unit along with the intake air.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,551,250 to Yingst, Thomas et al. teaches a freezer evaporator defrost system.

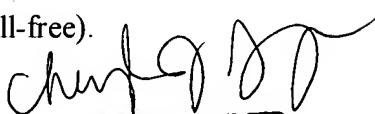
U.S. Patent 3,805,545 to Buchser, William J. et al. teaches a separator wall structure.

U.S. Patent 4,870,735 to Jahr, Jr. Richard T. et al. teaches a refrigeration cabinet construction.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (571) 272-4815. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (571) 272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Filip Zec
Examiner
Art Unit 3744
CHERYL TYLER
SUPERVISORY PATENT EXAMINER

FZ